



STATE OF ARIZONA
ARIZONA STATE LIQUOR BOARD
800 WEST WASHINGTON, 5TH FLOOR
PHOENIX, AZ 85007
PHONE: (602) 542-9789 FAX: 602-542-5707
Website: www.azliquor.gov

DOUGLAS A. DUCEY
Governor

MICHAEL J. TROYAN
Board Chair

JOHN COCCA
Director

Arizona State Liquor Board Hearing Minutes
June 7, 2018

Members Present: Michael J. Troyan – Chair, Troy L. Campbell – Vice Chair, Michael N. Widener (telephonically), Jeffrey K. Oravits, and Walter W. Jahn

Members Absent: None

Counsel Present: Michael Raine, Assistant Attorney General
Marc Harris, Assistant Attorney General, Independent Advisor to the Board

Staff Present: Denise Bale, Board Administrator

A. Call to Order

The hearing of the Arizona State Liquor Board was called to order on June 7, 2018, at 10:02 a.m. with Mr. Troyan presiding.

Roll Call

All members were present.

B. 10:00 a.m. Agenda: Review, consideration and action

1. Bar Liquor License No. 06070280 – Person and Location Transfer Application

From:
James William Boyd, Jr.
AZIZ Holdings, LLC
Welch's Garage
7345 E. Evans Road #116
Scottsdale, AZ 85260

To:
Patrick Henry Zanzucchi
Peoria Ave LLC
Centerfolds Cabaret
2031 W. Peoria Avenue
Phoenix, AZ 85029

This matter came before the Board for consideration of the Administrative Law Judge ("ALJ") Velva Moses-Thompson's proposed Findings of Fact and Conclusions of Law ("ALJ's Decision"). The Applicant and its Agent Patrick Henry Zanzucchi, appeared and were represented by their attorneys Francis J. Slavin, Thomas R. Aguilera and Jessica L. Dorvinen. Assistant Attorney General Michael Raine appeared on behalf of the Department of Liquor Licenses and Control. Assistant City Prosecutor Jessica Breedlove appeared on behalf of the City of Phoenix. In addition, the following Protestors appeared: Ken Kays, on behalf of the North Mountain Business Alliance; Marcia Viedmark, on behalf of Specialized Services Company; Daiana L. Gonzalez Solis; and Joe Schneider, on behalf of MorganChaney. The Board received independent legal advice from Assistant Attorney General Marc Harris.

As a preliminary matter Mr. Troyan asked all Board members to indicate that they have received and reviewed the administrative record of the formal hearing in this matter. All members have received and reviewed the record.

Motion to convene in executive session for the purpose of receiving legal advice -	Campbell
Seconded -	Oravits
Yay -	Campbell, Oravits, Troyan, Widener, Jahn
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 10:05 a.m. and reconvened in open session at 10:34 a.m.

Mr. Widener placed a statement in the record of a complication following a procedural ruling on motions concerning this application made at the September 7, 2017, Liquor Board meeting. A part owner of the Applicant filed a complaint with the State Bar of Arizona alleging misconduct on Mr. Widener's part. The State Bar of Arizona reviewed the complaint, found it not to be well founded, and closed the file. The Bar complaint suggested that Mr. Widener's participating in this appeal hearing creates a conflict of interest. Mr. Widener believes that he can impartially, fairly and fully participate in determining this appeal on the basis of the OAH testimony and written evidence. Mr. Widener intends to participate and is placing this statement in the public record to deter later complaints that there was no disclosure of this episode. Mr. Slavin fully concurred with what Mr. Widener stated. There is no conflict of interest and this case can proceed with Mr. Widener fully participating.

Mr. Troyan announced the order of oral argument on the Recommended Decision. Parties were given a limit of fifteen minutes to present their argument. Mr. Raine presented State's Motion to Strike/Disregard Matters Outside of the Hearing Record. Mr. Aguilera and Mr. Slavin responded to the Motion.

Motion to exclude the evidence of the Applicant's representative's training-	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Oravits, Troyan, Jahn
Nay -	None
Abstained -	None
Disposition -	Supplemental exhibit comprised of Title 4 training certificates is excluded from the record.

Motion to strike the unofficial transcript from the record -	Oravits
Seconded -	Jahn
Yay -	Oravits, Jahn, Widener, Troyan
Nay -	Campbell
Abstained -	None
Disposition -	Transcript provided by Applicant is excluded from the record.

Applicant filed its Brief in Support of Pending Application and Proposed Findings of Fact and Conclusions of Law with Response to ALJ's Report. Mr. Aguilera argued the capability, qualification and reliability of the Applicant. He asked the Board to reject the finding of the ALJ and find this Applicant capable, qualified and reliable. Mr. Slavin argued that Centerfolds has been operating at the same location from 1992 to 2017. During that time, Centerfolds has served the community interest and has not impacted the community within a one mile radius.

The Department filed its Response to Applicant's Brief in Support of Pending Application. Mr. Raine asked the Board to adopt the ALJ's decision with a few minor modifications. Ms. Breedlove reiterated Mr. Raine's statement that the OAH hearing lasted 9 days, and 22 witnesses testified. Ms. Breedlove asked the Board to adopt the ALJ's decision with modifications to 8 through 12, in addition to 73, and adopt the Conclusions of Law.

Mr. Aguilera presented a rebuttal. Mr. Slavin presented a rebuttal.

Mr. Troyan called a ten minute recess at 11:48 a.m. The Board reconvened at 12:02 p.m.

Protestors Ken Kays, on behalf of the North Mountain Business Alliance; Marcia Viedmark, on behalf of Specialized Services Company; Daiana L. Gonzalez Solis; and Joe Schneider, on behalf of MorganChaney, were sworn and testified about the proposed licensed location.

Motion to convene in executive session for the purpose of receiving legal advice -	Campbell
Seconded -	Troyan
Yay -	Campbell, Troyan, Oravits, Widener, Jahn
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 12:14 p.m. and reconvened in open session at 12:36 p.m.

Mr. Aguilera requested closing comments. Mr. Troyan denied the request. Mr. Aguilera and Mr. Slavin objected.

Mr. Campbell made a motion to adopt the Findings of Fact, Paragraph 1 through 152 as recommended by the ALJ with modifications to Facts 8, 9, 10, 11, 12, and 73, as set forth in the Department's Response to Applicant's Proposed Findings and Conclusions of Law.

Motion to adopt the Findings of Fact with modification as set forth in the Department's brief -	Campbell
Seconded -	Troyan
Yay -	Campbell, Troyan, Widener, Jahn, Oravits
Nay -	None
Abstained -	None
Disposition -	Findings of Fact adopted with modifications set forth in the Department's brief.

Mr. Widener made a motion to adopt the Conclusions of Law with respect to capability, qualification and reliability of the Applicant and with respect to the appropriateness of the location. Mr. Widener discussed his observations of the area surrounding Centerfolds Cabaret.

Motion to adopt all 23 Conclusions of Law -	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Jahn, Oravits
Nay -	Troyan
Abstained -	None
Disposition -	Conclusions of Law adopted

Mr. Campbell made a motion that the Person and Location Transfer application for Bar Liquor License No. 06070280 be denied as the Applicant has failed to demonstrate by a preponderance of the evidence that it is capable, qualified and reliable to hold a liquor license and that the public convenience requires and the best interest of the community will be served by granting this license to this location as required by A.R.S. section 4-203.

There was Board discussion.

Motion to deny the application -	Campbell
Seconded -	Widener
Yay -	Campbell, Widener, Jahn, Oravits
Nay -	Troyan
Abstained -	None
Disposition -	License denied

Mr. Aguilera's stated on the record that the location is licensed for a sexually oriented business and it will remain a sexually oriented business.

C. Minutes: Review, Consideration and Action

Motion to approve the minutes of	
May 3, 2018 -	Oravits
Seconded -	Troyan
Yay -	Oravits, Troyan, Campbell, Widener, Jahn
Nay -	None
Abstained -	None
Disposition -	May 3, 2018, minutes approved


D. Reports on Current Events, Matters of Board Procedure, Requests and Items for Future Agenda

The next meeting is July 12. There are matters set for hearing, and the board will receive training on new legislation.

E. Call to the Public

None

The Board adjourned at 1:00 p.m.



Denise M. Bale
Administrator of the
Arizona State Liquor Board



Date